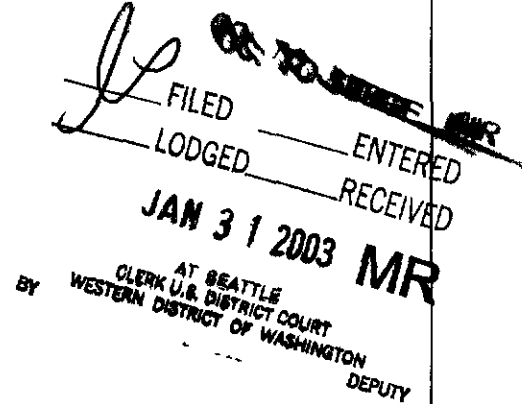


Honorable John C. Coughnour



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CR 00-00482 #00000147

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff,
v.
JAMES HOUSTON ANDERSON,
KIM POWELL, *et al.*,
Defendants.

No. CR00-0482 C

MEMORANDUM IN SUPPORT OF
GOVERNMENT'S RESPONSE TO
KIM POWELL'S RULE 41(e) MOTION
FOR RETURN OF PROPERTY

Noted for. February 7, 2003

MEMORANDUM OF LAW

I

INTRODUCTION

On January 15, 2003, Kim Powell filed a motion asking the Court to order the property that had been seized from his residence in April 1997 as part of a now-completed Federal Aviation Administration ["FAA"] investigation.¹ That motion should be denied

¹ Because Mr. Powell's Rule 41(e) motion is a separate civil action, not part of the now-completed criminal prosecution, *see, e.g., In Re Grand Jury Subpoenas*, 926 F.2d 847, 855 (9th Cir. 1991) (return of property motion filed when criminal investigation or prosecution no longer pending is

MEMORANDUM IN SUPPORT OF
GOVERNMENT'S RESPONSE TO KIM
POWELL'S RULE 41(e) MOTION FOR
RETURN OF PROPERTY - 1

UNITED STATES DEPARTMENT OF JUSTICE
CRIMINAL DIVISION
ORGANIZED CRIME AND RACKETEERING SECTION
1110 THIRD AVENUE
SEATTLE, WASHINGTON 98101
(206) 262-2077

147

for several reasons. First, the government is in the process of releasing some of the property seized from Powell. Second, on May 30, 2002, a federal grand jury subpoenaed all of the seized property, including the remainder that the government is not releasing, from the FAA as part of an ongoing criminal investigation. Defendant Powell has not made a showing sufficient to overcome the presumption of the legitimacy of that subpoena or the grand jury's need for the retained property. Finally, some of the seized property that is being retained – such as falsified helicopter maintenance logs – is contraband and should not be ordered returned under any circumstances.

II

FACTUAL BACKGROUND

In 1997, the FAA, along with the United States Attorney's Office for the Western District of Washington, was conducting a criminal investigation of a corporation called Intrex Helicopter, Inc. ["Intrex"] and the principals of that corporation, Kim Powell and James Houston Anderson. Powell and Anderson had formed Intrex as part of their efforts to build a helicopter and persuade the FAA to certify it as airworthy. Assistant United States Attorney ["AUSA"] Thomas Crane Wales was assigned to the case.

On April 24, 1997, as part of its investigation, the FAA executed search warrants at the residences of Powell and Anderson. At both locations, FAA investigators seized documents and other physical evidence related to Intrex and the helicopter.²

On September 26, 2000, a federal grand jury indicted Powell, Anderson, and two others for crimes related to Intrex and the helicopter. The charges included conspiracy, in violation of 18 U.S.C. § 371; mail fraud, in violation of 18 U.S.C. §§ 1341 & 2,

treated as a civil case), it may have been more appropriate to caption the case as "Kim Powell v. United States" with a civil docket number, rather than use the caption and case number from the now-completed criminal case. In order to avoid confusion, the government's response to the Rule 41(e) motion will use the same caption and case number as those appearing on the Powell motion.

² Anderson has not filed a Rule 41(e) motion.

1 interstate transportation of funds obtained by fraud, 18 U.S.C. §§ 2314 & 2; false
2 statements, in violation of 18 U.S.C. §§ 1001 & 2; and wire fraud in violation of 18
3 U.S.C. §§ 1343 & 2. It appears from the government's file in the case that as part of the
4 discovery in that case, Powell received a set of compact disks with digital images of all of
5 the documents that the FAA had seized.

6 On June 28, 2001, Powell and Anderson settled a civil lawsuit between them
7 involving Intrex and the helicopter. The settlement called for Anderson to relinquish all
8 interest in Intrex in exchange for his receipt of all right and title to the helicopter,
9 manuals, log books, maintenance and repair records, "and other property incidental to the
10 Helicopter." Powell signed a Bill of Sale attempting to effect the transfer of the above-
11 described property to Anderson. (Exhibit A). Powell also signed a letter, dated June 28,
12 2001, instructing and authorizing the FAA, which still had possession of the seized
13 property, to return the property described in the Bill of Sale to Anderson even if it had
14 been seized from Powell. (Exhibit B) But, because of the imprecise wording of the
15 Powell/Anderson settlement and the bill of sale, it was not clear exactly what property
16 seized from Powell fell within the scope of the settlement.

17 On June 29, 2001, the Federal District Court for the Western District of
18 Washington granted a government motion to dismiss all charges against Powell and
19 Anderson. (The government earlier had settled the cases against the other two
20 defendants.) On the same date, Intrex pleaded guilty to a one-count misdemeanor
21 alleging a breach of FAA regulations, in violation of 49 U.S.C. § 46316(a). The corporate
22 guilty plea included a written statement of facts supporting the plea, which Powell signed
23 on behalf of Intrex. (Exhibit C). The factual statement included the admission that
24 Powell and Anderson knowingly and willfully violated an FAA regulation by agreeing to
25 create, subsequently creating, and causing to be created false entries in an aircraft log
26 book and engine log book. (Anderson was not party to the plea agreement)

27 On the same day as the guilty plea, June 29, 2001, Anderson's attorney sent a
28

MEMORANDUM IN SUPPORT OF
GOVERNMENT'S RESPONSE TO KIM
POWELL'S RULE 41(e) MOTION FOR
RETURN OF PROPERTY - 3

UNITED STATES DEPARTMENT OF JUSTICE
CRIMINAL DIVISION
ORGANIZED CRIME AND RACKETEERING SECTION
1110 THIRD AVENUE
SEATTLE WASHINGTON 98101
(206) 262-2077

1 letter to AUSA Wales seeking to have the government permit Anderson to take
2 possession of the property described in the Bill of Sale, including the helicopter and the
3 records related to the helicopter, such as manuals, log books, maintenance, and repair
4 records. (Exhibit D).

5 On July 2, 2001, AUSA Wales sent a letter to Anderson's attorney agreeing to
6 permit Anderson to take possession of the helicopter. With respect to "the
7 documentation relating to the helicopter" that the FAA had seized from Powell, however,
8 AUSA Wales wrote that the government would first make it available to Powell for his
9 inspection. AUSA Wales further noted that he would release the requested
10 documentation to Anderson only if Powell first confirmed that it was subject to Powell's
11 June 28, 2001 letter or the Bill of Sale. (Exhibit E).

12 On July 5, 2001, Anderson's attorney wrote a letter to AUSA Wales stating that
13 "[i]t is important to Jim Anderson, for reasons we hope you will understand, that Kim
14 Powell not be left alone with any documents pertaining to the past business of Intrex or
15 the helicopter itself." The attorney proposed a joint inspection of the documents to
16 determine if they were covered by the Bill of Sale. (Exhibit F).

17 On July 10, 2001, AUSAs Wales and Robert Westinghouse responded to the July 5
18 letter and rejected Anderson's attorney's proposal. They wrote that "we have now re-
19 evaluated how we should proceed with respect to the release of property We will
20 release property held in evidence to the party from whom it was originally seized." The
21 prosecutors wrote that "[o]nce the evidence is released, how the party receiving it
22 proceeds vis-a-vis other claimants to the property appears to us to be a civil matter – one
23 in which, judging from your July 5 letter, we do not wish to become embroiled. . . ."
24 (Exhibit G).

25 On July 12, 2001, Anderson's attorney responded to the July 10 letter. He
26 described the "procedure outlined your letter" as "unacceptable" and claimed that
27 Anderson "fears that substantial damage will happen if you return the documents that he
28

MEMORANDUM IN SUPPORT OF
GOVERNMENT'S RESPONSE TO KIM
POWELL'S RULE 41(e) MOTION FOR
RETURN OF PROPERTY – 4

UNITED STATES DEPARTMENT OF JUSTICE
CRIMINAL DIVISION
ORGANIZED CRIME AND RACKETEERING SECTION
1110 THIRD AVENUE
SEATTLE, WASHINGTON 98101
(206) 262-2077

1 is entitled to possess to Kim Powell, contrary to the joint instructions of the parties.” The
2 letter further alleged that “[t]he financial damage could be substantial, and your
3 neglectful disrespect for the parties’ joint written instructions could lead to far more
4 complicated issues” (Exhibit H).

5 On August 6, 2001, Anderson’s attorney sent a letter to Powell’s attorney and
6 AUSAs Wales and Westinghouse asking that the government maintain possession of the
7 helicopter records “until Mr. Powell determines to cooperate with us.” The letter noted
8 that “[w]e have not had any luck getting someone on behalf of Kim Powell to cooperate
9 with us in working out a simple procedure for inspection and delivery of records to Mr
10 Anderson that are called for by the Powell/Anderson Settlement Agreement.” (Exhibit I).

11 On October 11, 2001, AUSA Wales was shot while inside his home. He died early
12 the following morning. The Federal Bureau of Investigation [“FBI”], the Seattle Police
13 Department, the United States Department of Justice [“DOJ”], and the King County
14 Prosecuting Attorney’s Office began a joint investigation of the murder. The DOJ
15 determined that the United States Attorney’s Office for the Western District of
16 Washington should be recused from the criminal investigation. Shortly thereafter, a
17 federal grand jury began to investigate the murder. The grand jury’s investigation is
18 ongoing.

19 Beginning in March 6, 2002, attorneys representing Anderson and Powell sent
20 correspondence to AUSAs Westinghouse and Peter Mueller seeking to recover the seized
21 property.³ Because of the DOJ recusal directive, neither Westinghouse nor Mueller were
22 involved in or knowledgeable about the criminal investigation of the Wales murder.

23 On May 20, 2002, Special Assistant United States Attorney [“SAUSA”] Steven
24 Clymer, who had recently been assigned to the murder investigation, sent a letter to
25
26

27 ³ AUSA Mueller was assigned to Hyde Amendment litigation that Anderson had initiated
28

1 counsel for Powell and Anderson.⁴ The letter confirmed information that SAUSA
 2 Clymer had related to Anderson's attorney orally: that the government would not return
 3 the seized property until it had an opportunity to determine whether it was relevant to the
 4 Wales murder investigation (Exhibit J).

5 On May 30, 2002, a federal grand jury issued a subpoena *duces tecum* to the Federal
 6 Aviation Administration ["FAA"] demanding production of the "documents, records,
 7 property, and physical evidence" that the FAA had seized from Powell and Anderson's
 8 residences during the April 1997 execution of search warrants.⁵ (Exhibit K). The FAA
 9 produced the subpoenaed evidence. The FBI has custody of that evidence.

10 Since May 30, 2002, government counsel has had several telephone conversations
 11 with counsel for Powell regarding the seized property. Because of the volume of the seized
 12 evidence, government counsel has suggested that Powell identify those portions of the
 13 seized evidence that he would like to have returned in order to expedite release of at least
 14 some of the property. Through counsel, defendant Powell rejected this suggestion.⁶

15 On January 28, 2003, government counsel sent a letter to the attorneys for Powell
 16

17 ⁴ At that time, government counsel believed that attorney Carlton F. Gunn was representing
 18 Powell. At some point, attorney Frank Smith began to represent Powell. AUSA Mueller forwarded the
 19 Clymer letter to Mr. Smith. Later, attorney James L. Vonasch began to represent Powell.

20 ⁵ Because of the secrecy requirements of Rule 6(e) of the Federal Rules of Criminal Procedure,
 21 government counsel previously has not disclosed to Powell's attorney the fact that a grand jury had
 22 subpoenaed the seized evidence. Thus, Powell's failure to account for the grand jury subpoena in his Rule
 23 41 motion papers is not a deliberate or negligent oversight. Disclosure of the existence of the subpoena in
 24 this pleading was authorized by court order.

25 ⁶ As part of his motion, Powell alleges that his inability to recover the seized "property has caused
 26 substantial harm to both myself and my wife." He then claims, without further explanation or factual
 27 support, that the government's possession of his wife's documents caused her to lose property regarding
 28 litigation in Texas. [Declaration of Kim Powell in Support of Rule 41(e) Motion at 1-2]. In fact, as a
 April 16, 2002 letter from AUSA Mueller to one of Powell's attorneys makes clear, "[e]fforts were
 previously made [by an FAA investigator] to return [documents belonging to Powell's wife] through
 attorney Frank Smith [who represented Powell], however, Mr. Smith never followed through to arrange
 to pick up the items (Exhibit L).

MEMORANDUM IN SUPPORT OF
 GOVERNMENT'S RESPONSE TO KIM
 POWELL'S RULE 41(e) MOTION FOR
 RETURN OF PROPERTY - 6

UNITED STATES DEPARTMENT OF JUSTICE
 CRIMINAL DIVISION
 ORGANIZED CRIME AND RACKETEERING SECTION
 1110 THIRD AVENUE
 SEATTLE, WASHINGTON 98101
 (206) 262-2077

1 and Anderson explaining that it was prepared to release some of the property that had
 2 been seized from Powell's residence but that it would require agreement between Powell
 3 and Anderson before deciding which of them could take possession of the property.
 4 (Exhibit M). On January 31, 2003, the FBI turned over some of the property seized from
 5 Powell to the FAA so that Powell and Anderson could view it and attempt to reach
 6 agreement about its ownership.

7 The above-described chronology of events demonstrates the following For the
 8 time that the FAA seized the property from Powell in April 1997 until the government
 9 dismissed charges against Powell and Anderson in June 2001, the government properly
 10 retained possession of the property as potential evidence in a pending criminal case After
 11 completion of the case, the uncertainty surrounding the ownership of the property delayed
 12 its release. From the time of the Wales murder until the end of May 2002, the
 13 government properly retained possession in order to determine if the seized property had
 14 potential evidentiary value. Since May 30, 2002, the FBI has properly retained possession
 15 of the seized property on behalf of the grand jury.

16 III

17 CONTROLLING AUTHORITY

18 A. Rule 41(e) of the Federal Rules of Criminal Procedure

19 Rule 41(e) of the Federal Rules of Criminal Procedure provides in pertinent part.

20 A person aggrieved . . . by the deprivation of property may move the district
 21 court for the district in which the property was seized for the return of the
 22 property on the ground that such person is entitled to lawful possession of
 the property. The court shall receive evidence on any issue of fact necessary
 to the decision of the motion.

23 Although non-contraband seized property that has not been forfeited normally
 24 should be returned upon resolution of a criminal case, "[a] defendant's Rule 41(e) motion
 25 for return of property . . . may be denied if the defendant is not entitled to lawful
 26 possession of the seized property, the property is contraband or subject to forfeiture, or the
 27 government's need for the property as evidence continues." *United States v Van*

28 MEMORANDUM IN SUPPORT OF
 GOVERNMENT'S RESPONSE TO KIM
 POWELL'S RULE 41(e) MOTION FOR
 RETURN OF PROPERTY - 7

UNITED STATES DEPARTMENT OF JUSTICE
 CRIMINAL DIVISION
 ORGANIZED CRIME AND RACKETEERING SECTION
 1110 THIRD AVENUE
 SEATTLE WASHINGTON 98101
 (206) 262-2077

1 *Cauwenberghe*, 934 F.2d 1048, 1060-61 (9th Cir. 1991). Here, although the government is
2 relying only on the latter two exceptions, all three of the above-described exceptions to
3 the general rule apply. First, because of the ambiguity in the agreement between Powell
4 and Anderson, as well as the lack of resolution between them, it is not clear whether
5 Powell, as opposed to Anderson, is the lawful owner of some of the property that Powell
6 seeks to recover. Second, and more significantly, as Powell admitted when he signed the
7 Intrex guilty plea, some of the seized property, such as the forged helicopter logbooks and
8 related material, is fraudulent and therefore contraband that should not be returned.
9 Third, and most importantly, the government has a compelling continued need for the
10 portions of the seized property that it has not returned as potential evidence in the Wales
11 murder investigation.

12 In his declaration, Powell asserts that “[i]f the Government feels there is something
13 necessary [in the seized property] for the ongoing investigation, a hearing is requested to
14 determine the reasonableness of that request.” [Declaration of Kim Powell in Support of
15 Rule 41(e) Motion at 3]. Powell cites to no authority supporting his view that the
16 government should be required to justify, in open court, its reasons for retention of
17 evidence in an ongoing murder investigation. Even if there were some merit to this
18 position when the only legal basis for the government’s retention of property is a search
19 warrant, here there is an independent basis for the government’s possession of the
20 property – the May 30, 2002 grand jury subpoena. The fact that the grand jury has
21 subpoenaed the property forecloses both the return of all of the seized property and a
22 hearing in open court into the reasonableness of the grand jury’s investigative conduct.
23 Such a procedure could jeopardize the investigation.

24 B. The Grand Jury’s Subpoena for the Documents

25 The Ninth Circuit has recognized that the grand jury is entitled to “wide latitude
26 to inquire into violations of criminal law.” *In Re Grand Jury Subpoena Dated June 5, 1985*,
27 825 F.2d 231, 236 (9th Cir. 1985) (citing *United States v Calandra*, 414 U.S. 338, 343
28

MEMORANDUM IN SUPPORT OF
GOVERNMENT’S RESPONSE TO KIM
POWELL’S RULE 41(e) MOTION FOR
RETURN OF PROPERTY – 8

UNITED STATES DEPARTMENT OF JUSTICE
CRIMINAL DIVISION
ORGANIZED CRIME AND RACKETEERING SECTION
1110 THIRD AVENUE
SEATTLE, WASHINGTON 98101
(206) 262-2077

1 (1974). Thus

2 [t]he grand jury may compel production of evidence as it considers
3 appropriate, its scope is not to be narrowly circumscribed. The law vests the
4 grand jury with substantial powers because its "investigative power must be
5 broad if its public responsibility is adequately to be discharged."

6 *Id.* (citations omitted).

7 By demanding the return of property that a grand jury has subpoenaed, Powell's
8 Rule 41(e) motion is the functional equivalent of an *ex post facto* motion to quash. As
9 such, the Powell motion clearly falls short of the stringent requirements necessary to
10 frustrate a grand jury investigation. The Supreme Court has held that:

11 [T]he law presumes, absent a strong showing to the contrary, that a grand
12 jury acts within the legitimate scope of its authority. See *United States v*
13 *Mechanik*, 475 U.S. 66, 75 (1986) (O'Connor, J., concurring in judgment)
14 ("The grand jury proceeding is accorded a presumption of regularity, which
15 generally may be dispelled only upon particularized proof of irregularities in
16 the grand jury process"). [Additional citations omitted]. Consequently, a
17 grand jury subpoena issued through normal channels is presumed to be
18 reasonable, and the burden of showing unreasonableness must be on the
19 recipient who seeks to avoid compliance.

20 *United States v. R. Enterprises, Inc.*, 498 U.S. 292, 300-01 (1991).

21 Although federal district courts do have "limited supervisory power over grand jury
22 proceedings, including the power to quash a grand jury subpoena," the separation of
23 powers doctrine requires that they use "great caution" when deciding whether to exercise
24 that power. *In Re Chinske*, 785 F.Supp. 130, 131-32 (D. Mont. 1991). Thus, the Ninth
25 Circuit has recognized that the government need not submit an affidavit disclaiming a
26 subpoenaed party's claims made in support of his refusal to comply with the subpoena.
27 See, e.g., *In Re Hergenroeder*, 555 F.2d 686 (9th Cir. 1977) (affirming contempt judgment
28 without need for government affidavit establishing legitimate purpose for subpoena
demanding handwriting exemplars); see also *In Re Grand Jury Proceedings (Garcia-Rossell)*,
889 F.2d 220, 223 (9th Cir. 1989) (rejecting need for government affidavit when party
challenging grand jury subpoena presented no evidence of improper purpose). Under such
circumstances, an affidavit from a government witness "describing the grand jury

MEMORANDUM IN SUPPORT OF
GOVERNMENT'S RESPONSE TO KIM
POWELL'S RULE 41(e) MOTION FOR
RETURN OF PROPERTY - 9

UNITED STATES DEPARTMENT OF JUSTICE
CRIMINAL DIVISION
ORGANIZED CRIME AND RACKETEERING SECTION
1110 THIRD AVENUE
SEATTLE, WASHINGTON 98101
(206) 262-2077

1 investigation in general terms" is sufficient to require compliance with a subpoena. *In Re*
2 *Chinske*, 785 F.Supp. at 132; *In Re Grand Jury Subpoena (Seiffert)*, 446 F.Supp 1153, 1155
3 n.5 (N.D.N.Y. 1978) (general affidavit sufficient).

4 Here, Powell has made no showing that the government's retention of the seized
5 property on behalf of the grand jury is unreasonable. Without a showing of
6 unreasonableness, Powell should not be permitted to deny the grand jury evidence that it
7 has subpoenaed or force the grand jury or the government to disclose the details of an
8 ongoing murder investigation in order to justify the subpoena.⁷

9 IV

10 CONCLUSION

11 For the reasons given above, the government respectfully requests that the Court
12 deny the Powell Rule 41(e) motion for return of property.

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27 ⁷ If the Court deems it necessary, government counsel can explain the reasons for continued
28 retention of the seized evidence to the Court *ex parte*.

EXHIBIT A

BILL OF SALE

In consideration of rescission of the Stock Issuance Agreement of November 4, 1992, and of shareholders agreement dated October 6, 1992. among James H. Anderson ("Anderson") and Kim S. Powell ("Powell") and Intrex Helicopter, Inc. ("Intrex"), a Washington corporation pursuant to Settlement Agreement dated June 28, 2001, Intrex hereby grants, assigns, conveys, and transfers to Anderson all right, title, and interest of Intrex in the following property of Intrex:

01. The model 204B Helicopter formerly registered with the FAA under registration number N1187W, and having borne serial number 2041 (the "Helicopter"), together with all spare parts, accessories, avionics, navigation and communication equipment, keys certificates, data plates, licenses and other property incidental to the Helicopter, all of which is in the possession of the United States of America ("U.S.A.") pursuant to the seizure of such property by the U.S.A.

02 All manuals, log books, maintenance and repair records, STC's, Form 337's, records for parts purchases and sales, yellow tags, other parts tags and records, Bell service manuals, service bulletins, operation manuals, and all other documentation possessed by the U.S.A. pursuant to a seizure of Intrex records with respect to the construction, rebuild, repair, maintenance, operation, storage, and history of the Helicopter.

03. All rights of action possessed by Intrex against third parties other than Powell


for damage to the Helicopter, or conversion of parts from the Helicopter. This specifically includes the assignment, without warranty, to Anderson of any claim by Intrex against the FAA and/or government agents involved in its seizure, transportation and storage of the Helicopter by the government and/or such agents of the government. This does not include the assignment to Anderson of any rights of Intrex to claim against the government or others for damages to the business and contractual rights of Intrex.

04. This Bill of Sale conveys the property described above in an as is, where is condition, with all faults. Intrex makes no warranties of any kind, express or implied and disclaims all such warranties. This is not a consumer transaction and Intrex disclaims all liability for any claims relating to commercial or consumer law, and Anderson accepts the property described above in its as is, where is condition. Intrex shall instruct the U.S.A. to deliver possession of the Helicopter and other property listed above which may be in the possession of the U.S.A. to Anderson.

05. Intrex represents that it knows that there is a claim against Intrex because of a lien a mechanic (recorded in Whatcom County) and a claim against the engine. Intrex has no actual knowledge of recorded or un-expired leases or third party ownership claims against the property conveyed hereby arising prior to the date hereof. Intrex represents that other than property taken from the Helicopter at or about the time of seizure by Chet Rasberry, that to the best of its knowledge and belief, all property of Intrex relating to the Helicopter and its documentation was seized by the U S.A. and is in the possession of the U.S.A. Any claim

claim for breach of these representations shall not result in personal liability to Kim Powell, except in the case of fraud.

Dated and signed this 28 day of June, 2001.



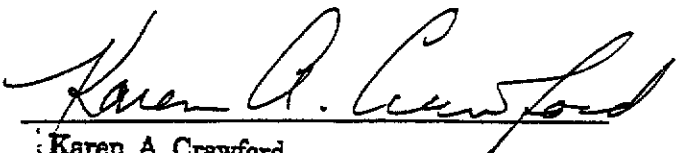
Kim S. Powell, President
Intrex Helicopter, Inc.

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Kim S. Powell is the person who appeared before me, said person acknowledged that he signed this instrument, on oath stated that he is authorized to execute said instrument, and acknowledged it as a Bill of Sale of Intrex Helicopter, Inc. to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

DATED June 28, 2001.





Karen A. Crawford
Notary Public in and for the State of
Washington, residing in Issaquah
My commission expires on 7/19/02

EXHIBIT B

June 28, 2001

To Whom It May Concern
United States of America
c/o Thomas Wales, Assistant U.S. Attorney
601 Union Street, #5100
Seattle, WA 98101-3903

Re: Property of Intrex Helicopter, Inc. in Possession of United States
of America Pursuant to Search and Seizure

Gentlemen:

This is to inform you that effective as of 5:00 p.m. on June 28, 2001 Intrex Helicopter, Inc. conveyed the helicopter formerly registered with the Federal Aviation Administration under N1187W together with all property of Intrex in your possession relating to the helicopter, as documented on the attached and enclosed Bill of Sale, to James Anderson.

This is further to instruct you to tender delivery of possession of all such property direct to Mr. Anderson. If there is any doubt, this also is to inform you that Mr. Anderson is authorized to obtain possession of all such property and to sign such receipts or other documentation as may be required incidental to the tender of possession of such property to him.

Please immediately inform Mr. Anderson of all procedural steps necessary for him to obtain possession of the property conveyed to him by Intrex.

Thank you

Very truly yours,

INTREX HELICOPTER, INC.

By 
Kim S. Powell, President


KSP

EXHIBIT C

JUDGE LASNIK

H FILED ENTERED
 LODGED RECEIVED

JUN 29 2001

AT SEATTLE
 CLERK U.S. DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON
 BY DEPUTY

CR 01-00249 #00000003

UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON
 AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

INTREX HELICOPTERS, INC.,

Defendant.

No CR01-249L

PLEA AGREEMENT

COME NOW the Plaintiff, United States of America (the "United States" or "Government"), by and through its counsel, Francis J. Diskin, United States Attorney for the Western District of Washington, and Thomas C. Wales and Robert Westinghouse, Assistant United States Attorneys for the District, and the defendant, INTREX HELICOPTERS, INC., and its counsel, Margaret M. Smith and Carlton F. Gunn, (collectively, the "Parties") and enter into the following Plea Agreement pursuant to Rule 11(e) of the Federal Rules of Criminal Procedure (the "Plea Agreement" or "Agreement")

1. *The Charges* —INTREX HELICOPTERS, INC., agrees to plead guilty to a one-count Information charging a violation of Title 49, United States Code, Section 46316(a). By entering this plea of guilty, INTREX HELICOPTERS, INC., hereby waives any and all objections to the filed charges predicated on the form of the charging Information.

2. *Maximum Penalty, Crime Victims Fund, Sentencing Guidelines*—INTREX HELICOPTERS, INC., understands that the maximum penalty that the Court may impose upon its

plea of guilty is a period of probation of ONE (1) YEAR and a fine not to exceed TEN THOUSAND DOLLARS (\$10,000), together with a mandatory penalty assessment of FIVE DOLLARS (\$5) to be deposited into the Crime Victims Fund pursuant to Title 18, United States Code, Section 3013, INTREX HELICOPTERS, INC., agrees to pay the special assessment immediately prior to sentencing. INTREX HELICOPTERS, INC., understands that the sentencing guidelines promulgated by the United States Sentencing Commission are not applicable to this case, see U.S.S.G. § 1B1.9, and that the Court may order restitution to any victim of the offense. INTREX HELICOPTERS, INC., acknowledges that no one has promised or guaranteed what sentence the Court will impose, and it understands that it may not withdraw its guilty plea solely because of the sentence imposed by the Court.

3 Rights Waived by Pleading Guilty.—INTREX HELICOPTERS, INC., understands and acknowledges that, by pleading guilty, it knowingly and voluntarily waives the following rights:

- (a) The right to plead not guilty, and to persist in a plea of not guilty;
- (b) The right to be presumed innocent until guilt has been established at trial, beyond a reasonable doubt;
- (c) The right to trial, and at that trial, the right to the effective assistance of counsel;
- (d) The right to confront and cross-examine witnesses against it;
- (e) The right to compel or subpoena witnesses to appear on its behalf;
- (f) The right to appeal a finding of guilty or any pretrial rulings.

4 Storage Costs.—INTREX HELICOPTERS, INC., agrees to be responsible for storage costs incurred by the Federal Aviation Administration ("FAA"), in the amount of \$28,405 for the cost of storing the helicopter bearing Serial No. 2041 and Registration No. N1187W (the "Helicopter") from the date of its seizure to the present.

5 Facts Underlying Guilty Plea.—INTREX HELICOPTERS, INC., and the United States stipulate to the following facts underlying INTREX HELICOPTERS, INC.,'s guilty plea:

At all times material herein, INTREX HELICOPTERS, INC., was a corporate entity proposed and created by JAMES HOUSTON ANDERSON and owned equally by KIM STAFFORD POWELL and JAMES HOUSTON ANDERSON. INTREX HELICOPTERS, INC., was incorporated under the laws of the State of Washington. KIM STAFFORD POWELL was a broker of used aircraft parts. KIM STAFFORD POWELL was also an officer and the first president of INTREX HELICOPTERS, INC., located in Bellingham, Washington.

At all times material herein, JAMES HOUSTON ANDERSON was a commercial airline pilot and an officer of and, initially, secretary and, later, president of INTREX HELICOPTERS, INC.

At a time unknown but sometime between April 30, 1996, and June 30, 1996, KIM STAFFORD POWELL and JAMES HOUSTON ANDERSON, officers of and acting on behalf of INTREX HELICOPTERS, INC., met with each other, and Ricky Boatright, and, at this meeting, knowingly and willfully violated an FAA regulation by agreeing to create, and subsequently creating, and causing to be created, certain false entries in an aircraft log book and engine log book for a helicopter that they had previously assembled, at least in part, from spare and surplus military parts and that they had previously registered with the FAA under Registration No. N1187W. The falsified log book entries bore the dated signature of the mechanic who purportedly did the work reflected in each of the entries; many of these signatures purported to be signatures of Kenneth E. Karateew, an FAA-certified mechanic living in the Bellingham, Washington, area—a number of them dated well after May 6, 1994, the date on which Kenneth E. Karateew was killed in an airplane crash.

These logbooks were then presented to and used by an FAA certified repair station inspector to complete a 100 hour and an annual inspection, which are required by FAA regulations in order to maintain a helicopter's continued airworthiness.

6 Waiver of Statute of Limitations as to Information.—INTREX HELICOPTERS, INC., having been advised of the nature of the charge and of its rights; having been expressly advised that the statute of limitations set forth in Section 3282 of Title 18 of the United States Code for violation of Title 49, United States Code, Section 46316(a) is five (5) years from the date of the occurrence of the alleged violation; and having been expressly advised that it could not be prosecuted for any such offense that occurred more than five (5) years before the date of the Information absent its express agreement to waive the statute of limitations, or operation of law unrelated to its express agreement, INTREX HELICOPTERS, INC., knowingly and intelligently waives its right to bar prosecution for the violation alleged in the Information.

7 Additional Charges, Breach and Waiver.—The United States agrees not to bring any additional charges against INTREX HELICOPTERS, INC., or Kim Stafford Powell in the Western District of Washington, based on evidence in the Government's possession at the time of this Agreement and arising out of or relating to the charges contained in the Indictment and subject to the provisions of paragraph 10 below, unless INTREX HELICOPTERS, INC., breaches this Plea Agreement. In this regard, INTREX HELICOPTERS, INC., recognizes that the United States has agreed not to bring additional criminal charges in this District solely because of this Agreement and that if this Agreement is breached, the United States expressly retains the right to present to

1 the Grand Jury for indictment all the criminal violations established by the evidence. INTREX
 2 HELICOPTERS, INC., expressly waives its right to challenge the initiation of additional charges
 3 against it arising out of the conduct described above, if it breaches this Plea Agreement.

4 *8 Agreement to Halt Certification Efforts, Restrictions on Future Business Activities —*

5 INTREX HELICOPTERS, INC., agrees to immediately and permanently cease all efforts to obtain
 6 FAA certification as a civilian Bell Model 204B of the helicopter presently bearing Registration
 7 No. N1187W and Serial Number 2041 (the "Helicopter"). INTREX HELICOPTERS, INC., further
 8 agrees it will not oppose removal of the aircraft data plate and the fuselage component data
 9 plate from the Helicopter and the surrender of them to the FAA.

10 INTREX HELICOPTERS, INC., agrees it will not in the future engage in the business of
 11 acquiring/operating/brokering Bell Model 204B helicopters that have been substantially
 12 destroyed, significantly damaged, or are otherwise defective to such a degree as to be ineligible
 13 for a standard airworthiness certificate for the purpose of rebuilding, reassembling, or obtaining
 14 certification or a standard airworthiness certificate for such aircraft. The Parties do not intend by
 15 these restrictions to prevent INTREX HELICOPTERS, INC., from acquiring/operating/brokering an
 16 intact and operational Model 204B that has a valid standard airworthiness certificate or from
 17 performing the ordinary and necessary maintenance and repair that does not reach the level of
 18 rebuilding an aircraft, or from brokering genuine Bell Model 204B parts.

19 *9 Release of Claims, Release of Helicopter* —The United States agrees to release all
 20 possessory and monetary claims against the Helicopter. INTREX HELICOPTERS, INC., hereby
 21 authorizes the United States to release the Helicopter to James Houston Anderson; the United
 22 States agrees to do so promptly following sentencing.

23 *10 Charges Against INTREX HELICOPTER, INC., Officer Kim Stafford Powell.*—The
 24 United States agrees to dismiss the present charges against Kim Stafford Powell at the time of
 25 sentencing and will pursue no further charges against him in the Western District of Washington
 26 based upon the evidence in its possession at the time of this Agreement and arising out of or
 27 relating to the charges contained in the Indictment, provided that (1) INTREX HELICOPTER, INC.,
 28 does not breach this Agreement; and (2) Kim Stafford Powell refrains, either directly or through

any entity over which he exercises control, from engaging in activity that would violate the restrictions set forth in paragraph 8 if the activity were engaged in by INTREX HELICOPTER, INC

11 Statute of Limitations, Waiver in Event of Breach —In the event that this Plea Agreement is not accepted by the Court for any reason, or INTREX HELICOPTERS, INC., breaches any term of this Agreement, the statute of limitations shall be deemed to have been tolled from the date of this Plea Agreement (1) to the thirtieth day following the date of non-acceptance of the Plea Agreement by the Court, or (2) to the thirtieth day following the date of the breach of the Plea Agreement by INTREX HELICOPTERS, INC.

12 Right to Speak at Sentencing, Provide Facts to Court.— The Parties expressly reserve the right to speak to the Court at the time of sentencing pursuant to Rule 32(c)(1) of the Federal Rules of Criminal Procedure. The United States further reserves the right to provide to the Court, to the United States Probation Office, and to the defendant a statement of facts relating to all the criminal conduct for which INTREX HELICOPTERS, INC., was responsible; the Parties reserve the right to correct and comment on any misstatements of fact made in the course of the presentence investigation or in the course of the sentencing or other proceedings.

13. Good Behavior.—INTREX HELICOPTERS, INC., agrees to obey all local, state, and Federal laws between the time of pleading and sentencing, and to serve any sentence imposed by the Court.

14 Voluntariness of Plea.—INTREX HELICOPTERS, INC., acknowledges that it has entered this Plea Agreement freely and voluntarily, and that no threats or promises, other than the promises contained in this Agreement, were made to induce it to enter this plea of guilty.

15 Complete Agreement — The United States and INTREX HELICOPTERS, INC.,
acknowledge that the terms and conditions set forth above constitute the entire Plea Agreement
between the Parties and deny the existence of any other terms and conditions not stated herein.

DATED this 29th day of June, 2001.

Kim Stafford Powell
INTREX HELICOPTERS, INC.
Defendant, by Kim Stafford Powell,
its authorized officer

Carlton F. Gunn
CARLTON F. GUNN
Attorney for Kim Stafford Powell

Margaret M. Smith
MARGARET M. SMITH
Attorney for Defendant INTREX
HELICOPTERS, INC.

Thomas C. Wales
THOMAS C. WALES
Assistant United States Attorney

Carlton F. Gunn
CARLTON F. GUNN
Attorney for Defendant INTREX
HELICOPTERS, INC.

Robert Westinghouse
ROBERT WESTINGHOUSE
Assistant United States Attorney

Kim Stafford Powell
KIM STAFFORD POWELL, Personally

Margaret M. Smith
MARGARET M. SMITH
Attorney for Kim Stafford Powell

EXHIBIT D

Law Offices
HELSELL
FETTERMAN
A Limited Liability Partnership

June 29, 2001

Larry Setchell
Attorney At Law
EMAIL lsetchell@helsell.com
DIRECT DIAL 206-689-2171

Thomas C. Wales
Assistant United States Attorney
United States Attorney's Office
601 Union Street, #5100
Seattle, WA 98101-3903

COPY RECEIVED

JUN 29 2001

UNITED STATES ATTORNEY
SEATTLE WASHINGTON

Re: In Re Anderson, Powell, and Intrex

Dear Tom:

This is to notify you and the United States that Jim Anderson now owns the helicopter formerly registered as N1187W, together with all of its documentation, parts, log books, and other associated property in the possession of the United States of America.

Enclosed herewith please find a letter of authority from Intrex, signed by Kim Powell, together with a copy of the bill of sale conveying the helicopter and its associated parts and documentation to Mr. Anderson.

Please call me at your earliest convenience to discuss how Mr. Anderson may promptly arrange to take possession of the helicopter and the other property belonging to him which is in the possession of the United States.

Thank you.

Very truly yours,

HELSELL FETTERMAN LLP

Larry Setchell, LTM

By

Larry Setchell

LXS.ltm
Enclosure
cc Jim Anderson

g:\users\lxs\anderson\intrex\corresp\wales629.doc

EXHIBIT E

U.S. Department of Justice



United States Attorney
Western District of Washington

Please reply to
Thomas C. Wales
Assistant United States Attorney
Direct Line (206) 553-4495

601 Union Street, Suite 5100
Seattle, Washington 98101-3903

Tel (206) 553-7970
FAX (206) 553-0882

July 2, 2001

Larry Setchell, Esq.
Helsell Fetterman
1500 Puget Sound Plaza
1325 Fourth Avenue
Seattle, Washington 98101-2509

RECEIVED
JUL 03 2001
HELSELL FETTERMAN LLP

Re: Helicopter Bearing Registration No. N1187W

Dear Larry,

I have your letter of June 29, 2001, relating to the helicopter to be returned to you following the Intrex guilty plea, together with your request for all helicopter-related documentation and property belonging to James Anderson. The helicopter is being stored by EG&G Dynatrend at Venable Aircraft Company's facility at Ryan Field in Hemet, California, and may be picked up by Mr. Anderson at his convenience at that location. I have asked the FAA to get me a contact person for you, and will pass that information along as soon as I have it.

We expect that Mr. Anderson's property will be pulled from evidence this week. You may either pick it up at your convenience, or I will make arrangements to deliver it to you.

You have also requested all documentation relating to the helicopter. Given that most of it was seized from Kim Powell's residence and that some of it is arguably his personal property and not that of Intrex Helicopters, we will pull all of it, and make it available, as an initial matter, for his inspection. As soon as he indicates that it is subject to his letter of June 28, 2001, and/or the Bill of Sale that you have provided us, it will be released to you. As with Mr. Anderson's personal property, we will pull this documentation from evidence this week.

Very truly yours,

FRANCIS J. DISKIN
United States Attorney

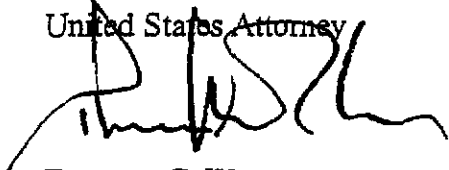

THOMAS C. WALES
Assistant United States Attorney

EXHIBIT F

Law Offices
HELSELL
FETTERMAN
A Limited Liability Partnership

July 5, 2001

Larry Setchell
Attorney At Law
EMAIL lsetchell@helsell.com
DIRECT DIAL 206-689-2171

Thomas C. Wales
Assistant United States Attorney
United States Attorney's Office
601 Union Street, #5100
Seattle, WA 98101-3903

Re: Helicopter Bearing Registration No. N1187W

Dear Tom:

Thank you for your letter of July 2.

It is important to Jim Anderson, for reasons we hope you will understand, that Kim Powell not be left alone with any documents pertaining to the past business of Intrex or the helicopter itself. We therefore request that you arrange for a joint inspection of the documents in question. Jim has authorized me to attend that inspection on his behalf if he may be working at the time. Please let me know when you want us to visit to sort out the documents that go to Jim versus those that may be returned to Mr. Powell. I am certain Mr. Powell and his counsel will agree to this request.

Thank you again

Very truly yours,

HELSELL FETTERMAN LLP

By



Larry Setchell

LXS:ltm

cc: Jim Anderson

g:\users\lxs\anderson\us\corresp\wales705.doc

EXHIBIT G

U.S. Department of Justice



United States Attorney
Western District of Washington

Please reply to
Thomas C. Wales
Assistant United States Attorney
Direct Line (206) 553-4495

601 Union Street, Suite 5100
Seattle, Washington 98101-3903

Tel (206) 553-7970
FAX (206) 553-0882

July 10, 2001

RECEIVED
JUL 11 2001

HELICOPTER BEARING REGISTRATION NO. N1187W

Larry Setchell, Esq.
Helsell Fetterman
1325 Fourth Avenue, Suite 1500
Seattle, Washington 98101-2509

Re: *Helicopter Bearing Registration No. N1187W*

Dear Larry,

After having had the agents spend a couple of hours attempting to sift through the evidence and segregate Intrex-related material from Kim Powell's personal effects, and then receiving your letter of July 5, we have re-evaluated how we should proceed with respect to the release of property. We now intend to follow our standard procedures in such cases. We will release property held in evidence to the party from whom it was originally seized.

Once the evidence is released, how the party receiving it proceeds vis-a-vis other claimants to the property appears to us to be a civil matter—one in which, judging from your July 5 letter, we do not wish to become embroiled, especially where there is no benefit to the Government in doing so. In addition, the process of segregating the material has proved to be very time consuming, and we are reluctant to expend further resources on it for the same reason.

We have made arrangements through the FAA with EG&G Dynatrend for the release of the helicopter to Mr. Anderson. You should contact EG&G Dynatrend District Manager Joseph Salvatore at (206) 575-2998. He is expecting your call.

Very truly yours,

FRANCIS J. DISKIN
United States Attorney

THOMAS C. WALES
Assistant United States Attorney

ROBERT WESTINGHOUSE
Assistant United States Attorney

EXHIBIT H



Law Offices

HELSELL
FETTERMAN

A Limited Liability Partnership

Larry Setchell
Attorney at Law
EMAIL lsetchell@helsell.com
DIRECT DIAL 206-689-2171

July 12, 2001

BY FAX

Thomas C. Wales
Bob Westinghouse
Assistant United States Attorney
United States Attorney's Office
601 Union Street, #5100
Seattle, WA 98101-3903

Re: Jim Anderson

Gentlemen:

Thank you for your letter of July 12, concerning the return of records seized from the parties to the recently dismissed indictments. The procedure outlined in your letter is unacceptable, and contrary to the joint written instructions of the parties. Mr. Anderson is to receive all documentation relating to the helicopter. Mr. Powell is to receive none. Mr. Anderson is to receive all parts pertaining to the helicopter. Mr. Powell is to receive none.

We suggest that a simple arrangement be made for the parties to get together and sort out the documents so that you are not in the middle. On behalf of Jim Anderson we are instructed to advise you that he fears that substantial damage will happen if you return the documents that he is now entitled to possess to Kim Powell, contrary to the joint instructions of the parties. The financial damage could be substantial, and your neglectful disrespect for the parties' joint written instructions could lead to far more complicated issues arising than would be the case if we merely agreed to follow the parties' written instructions and arrange for a joint time to appear, sort out, and take custody of the seized records.

Please respond to this today. We may need to seek protection from Judge Lasnik if we are unable to work this out by agreement.

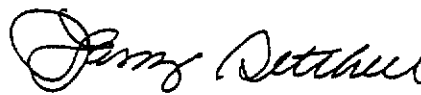
Thomas C Wales
July 12, 2001
Page 2

Thank you

Very truly yours,

HELSELL FETTERMAN LLP

By

A handwritten signature in cursive script, appearing to read "Larry Setchell".

Larry Setchell

LXS.ltm

cc: Jim Anderson
Greg Kosanke

EXHIBIT I

Law Offices
HELSELL
FETTERMAN
A Limited Liability Partnership

Larry Setchell
Attorney at Law
EMAIL lsetchell@helsell.com
DIRECT DIAL 206-689-2171

August 6, 2001

Gregory L. Kosanke
Smith & Kosanke
P.O. Box 632
Lynden, WA 98264
United States of America

Margaret Smith
Federal Public Defender
1111 Third Avenue, #1100
Seattle, WA 98101

COPY RECEIVED
AUG 07 2001
UNITED STATES ATTORNEY
Seattle, Washington

✓ Thomas C. Wales
✓ Robert Westinghouse
Assistant United States Attorneys
United States Attorney's Office
601 Union Street, #5100
Seattle, WA 98101-3903

Re: Anderson v. Powell, et al

Dear Counsel

We have not had any luck getting someone on behalf of Kim Powell to cooperate with us in working out a simple procedure for inspection and delivery of records to Mr. Anderson that are called for by the Powell/Anderson Settlement Agreement.

This is to request that the records be held in the custody of the U.S. Attorney until Mr. Powell determines to cooperate with us, as he is bound to do so by his settlement agreement with Mr. Anderson. We apologize for any inconvenience this may cause the U.S. Attorney, but under the circumstances we believe it would be neglectful and damaging to Mr. Anderson to allow Mr. Powell to have access to those records without supervision.

August 6, 2001
Page 2

Thank you

Very truly yours,

HELSELL FETTERMAN LLP

By 
Larry Setchell

LXS ltm

cc: Jim Anderson

g:\users\lxs\anderson\us\corresp\counsel\806.doc

EXHIBIT J



U.S. Department of Justice

COPY RECEIVED

United States Attorney
Western District of Washington

MAY 21 2002

UNITED STATES ATTORNEY
Seattle, Washington

Please reply to
STEVEN D. CLYMER
Special Assistant United States Attorney
Direct Line: (607) 255-3814

1110 Third Avenue, 11th Floor
Seattle, Washington 98101-3903
www.usdoj.gov/usao/waw

Tel: (206) 262-0460
Fax: (206) 262-2329

May 20, 2002

Larry Serchell
Helsell Fetterman
1500 Puget Sound Plaza
1525 Fourth Avenue
Seattle, Washington 98101

Carlton F. Gunn
Assistant Federal Public Defender
1551 Broadway, Suite 501
Tacoma, Washington 98402

Re: United States v. James Houston Anderson, et al.
No. CR00-482L, USDC, W.D. Washington

Dear Counsel.

I am writing in connection with the documents and physical evidence seized from your clients, James Anderson and Kim Powell, some years ago during the execution of search warrants in connection with a Federal Aviation Administration investigation. It is my understanding that Mr. Anderson and Mr. Powell recently have made efforts through counsel to reacquire possession of the seized property and that there may be some unresolved issues regarding which of them is entitled to recover some of the property seized from Mr. Powell.

As I already have explained to Mr. Serchell in a telephone conversation, until federal agents investigating the murder of Assistant United States Attorney Thomas C. Wales have an opportunity to examine the property, the government cannot either return it to your clients or permit you or your clients to inspect it. If we determine that any of the property has no bearing on the criminal investigation, we will release it so that Assistant United States Attorney Peter O. Mueller can arrange for it to be returned as he sees fit.

Larry Sercheil
Carlton F. Gunn
Re: U.S. v. Anderson, et al
May 20, 2002
Page 2

If you have any questions or would like to discuss this matter, you can contact me
at (607) 255-3814

Yours truly,

Michael Cherroff
Assistant Attorney General
United States Department of Justice



Steven D. Clymer
Special Assistant United States Attorney

cc: Peter O. Mueller, AUSA
Thomas L. Caven, FAA

EXHIBIT K

United States District Court

WESTERN

DISTRICT OF

WASHINGTON

TO,

Federal Aviation Administration
c/o Tom Caven
1601 Lind Avenue, SW
Renton, WA 98055-4056

SUBPOENA TO TESTIFY BEFORE GRAND JURY

SUBPOENA FOR:

☐ PERSON☒ DOCUMENT(S) OR OBJECT(S)

YOU ARE HEREBY COMMANDED to appear and testify before the Grand Jury of the United States District Court at the place, date, and time specified below

PLACE	COURTROOM
United States Courthouse 1010 5th Avenue 5th and Madison Seattle, WA 98104	Room 311
	DATE AND TIME
	June 12, 2002, 1 15 p.m.

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):*

All documents, records, property, and physical evidence, including helicopter parts, seized from James Houston Anderson, Kim Powell, and Intrex Helicopter, Inc., pursuant to search warrants executed at 2713 107th Avenue SE, Beaux Arts, Washington, 5040 Best Road, Bellingham, Washington, and any other locations, in and about April 1997. Please include any written inventories of said property

☐ Please see additional information on reverse

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

CLERK	BRUCE RIFKIN	DATE	May 30, 2002
DEPUTY CLERK	<i>P. Melab</i>	GJ 01-1	
	Issued to Blank	USAO #2001R01575	
		SN #29629	
This subpoena is issued on application of the United States of America.		NAME, ADDRESS AND PHONE NUMBER OF ASSISTANT U.S. ATTORNEY	
		STEVEN D. CLYMER, Special Assistant U.S. Department of Justice 1110 Third Avenue, 11th Floor Seattle, WA 98101, 206-262-2077	

*If not applicable, check none

EXHIBIT L



U.S. Department of Justice

United States Attorney
Western District of Washington

Please reply to
Peter O. Mueller
Assistant United States Attorney
Direct Line (206) 553-4735

601 Union Street, Suite 5100 Tel: (206) 553-7970
Seattle, Washington 98101-3903 Fax: (206) 553-6934
www.usdoj.gov/usao/waw

April 16, 2002

Carlton F. Gunn, Esq.
Assistant Federal Public Defender
1551 Broadway, Suite 501
Tacoma, Washington 98402

Re: United States v. James Houston Anderson, et al.
No. CROO-482L, USDC, W.D. Washington

Dear Mr. Gunn:

In response to your March 6, 2002 letter to Bob Westinghouse, requesting return of property seized from your client, Kim Powell in connection with the above referenced case, please be advised as follows:

Wills, passports, and children's health documents are not among the property seized. No cash was seized. Nor are we able to identify any items which you describe as "picture(s) of James Kufahl." Indeed, we don't know who James Kufahl might be. No tools or shop equipment were seized. The only helicopter or aircraft parts seized are those listed on pages 5, 10 and 11 of the search warrant inventory, a copy of which is being sent to you by separate correspondence discussed below. Specifically, the following items contained on the list attached to your March 6 letter were not seized:

Hydraulic Pumps	900 Gear Box parts
Main Transmission	Tail Rotor Hubs
Main Transmission cases, gears, bearings mast	Cross Tubes
Oil Pumps	Skid Tubes
Tail Rotor Hanger Bearings	Skid Saddle Tubes
Tail Rotor Drive Shafts	Seats
Lycoming T-53 engine parts	Controls & Control Tubes
420 Gear Box parts	Servos

Carlton F. Gunn -2
April 16, 2002

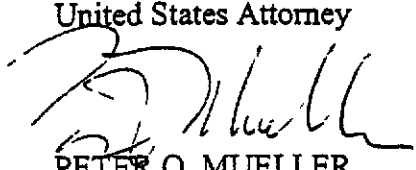
Five bank statements in the name of Karl Kjarsgaard (not Kirk Kasgaard) were seized, but no credit cards, personal papers or tax documents in that name were seized. A briefcase containing documents in the name of Pamela Powell was seized. Efforts were previously made by Agent Caven to return these items through attorney Frank Smith, however Mr. Smith never followed through to arrange to pick up the items.

With respect to the remaining items, Mr. Powell has previously advised us that those items covered by the Bill of Sale between Intrex Helicopters Inc, and James Anderson are to be turned over directly to Mr. Anderson. Mr. Anderson, through his counsel, Mr. Setchell, has also requested those items. The problem is that many of the items covered by the Bill of Sale, fall into the categories such as Helicopter parts, log books, maintenance records etc, which Mr. Powell now requests be returned to him.

I have asked the FAA to go through the seized items and attempt to identify and segregate all documents arguably covered by the Bill of Sale. When that process is complete, you and Mr. Setchell can review the result, and attempt to agree on which items are covered by the Bill of Sale. If you agree, all remaining documents and other items can then be returned to Mr. Powell. With respect to helicopter parts, they are individually listed on the search warrant inventory. I am sending you a copy of the inventory in a separate letter, addressed to both you and Mr. Setchell, which attempts to address the issue of the items covered by the Bill of Sale. Please review the inventory with Mr. Powell and advise me which of the seized parts, listed on pages 5, 10, and 11 of the inventory you agree are covered by the Bill of Sale and which, if any, you believe should be returned to Mr. Powell.

Yours truly,

JOHN McKAY
United States Attorney



PETER O. MUELLER
Assistant United States Attorney

cc: Tom Caven
F.A.A.

EXHIBIT M



U.S. Department of Justice
United States Attorney
Western District of Washington

Please reply to
STEVEN D. CLYMER
Special Assistant United States Attorney

1110 Third Avenue, 11th Floor
Seattle, Washington 98101-3903
Direct Line (607) 255-3814

Tel (206) 262-0460
Fax (206) 262-2329

January 28, 2003

James L. Vonasch
526 1st Avenue S Apt. 321
Seattle, Washington 98101

Larry Setchell
Helsell Fetterman
1500 Puget Sound Plaza
1325 Fourth Avenue
Seattle, Washington 98101

Re: Property Seized From Kim Powell

Dear Counsel:

I am writing in connection with the property seized from Kim Powell's residence in April 1997 as part of the Federal Aviation Administration ["FAA"] investigation. As you are aware, that property is the subject of a pending Rule 41(e) motion for return of property.

The government is in the process of identifying those pieces of property seized from Mr. Powell that it is willing to return without judicial intervention [hereinafter "released Powell property"]. Because, to my knowledge, the dispute between Mr. Powell and James Anderson about the ownership of some of that property has never been resolved, the government will not transfer the released Powell property directly to Mr. Powell. Instead, it will be turned over to FAA Special Agent Thomas Caven. Special Agent Caven will make the released Powell property available to both Powell and Anderson, or their representatives, for joint inspection at a mutually agreeable time. If Powell and Anderson are able to reach agreement about the ownership of any of that property, the government will transfer possession of such property to the appropriate party. The government will not transfer possession of any property over which there remains any dispute about ownership. If you would like to make arrangements to have your clients (or their representatives) jointly inspect the released Powell property under these terms, contact Assistant United States Attorney Peter Mueller.

James L. Vonasch
Larry Setchell
Re: Seized Powell Property
January 23, 2003
Page 2

To avoid any confusion, please note that (a) the government is releasing some, not all of the Powell property; and (b) the government is not releasing any of the property seized in April 1997 from Mr. Anderson's residence.

Yours truly,

Bruce Ohr
Chief, Organized Crime & Racketeering Section
Criminal Division, Department of Justice

—S—

Steven D. Clymer
Special Assistant United States Attorney

cc: Peter O. Mueller, AUSA
Thomas L. Caven, FAA
Ronald M. Bone, FBI